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EXAMINER

ROBERTSON, DAVID

ART UNIT PAPER NUMBER

3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/987,908

Applicant(s)

STRUTT ET AL.

Examiner

Dave Robertson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Rule 1.105.

DETAILED ACTION

1. Claims 1-35 are examined.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Receipt is acknowledged of certified foreign priority papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. However, two issues are raised by the applicant's claim to priority:

- a. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.
- b. To receive benefit of an earlier filing date under 35 U.S.C. 119(e), the disclosure of the invention in the provisional application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112 for claims in the later-filed application. However, the disclosure of the provisional Application No. 60/262361 fails to provide adequate support or enablement for claims 3-11 of the present application. Claims 3-11 refer to groupings of business dimensions in specific groupings "financial analysis", "functional document", "master",

"operational", "transaction activity", and "universal". However, these claim terms appear to refer to matter in Figure 19 of the nonprovisional application, the provisional drawings and discussion having up to Figures 15y. Other deficiencies in the priority material as well may or may become relevant with respect to the application of art, however, Applicant is invited here to show support in the provisional for claims of the application to ensure the earliest possible date with respect to prior art.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-16, 31, 34 and 35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims to mere arrangements of data are non-statutory under 35 U.S.C. 101. Mere claiming of nonfunctional descriptive material in a computer does not make it statutory. See MPEP 2106.01 [R-5].

An invention is statutory subject matter if the invention as a whole: a) falls into one of the statutory classes of invention (process, machine, manufacture, or composition of matter); and b) is useful (has a particular use or advantage conferring a benefit); and c) is not a judicially created exception to patentable subject matter (law of nature, abstract idea, or natural phenomenon) without practical application; and d) does not preempt all uses of a judicially created exception to patentable subject matter. MPEP [r5] § 2106 Patent Subject Matter Eligibility.

Claim 1 recites "A business model...comprising a set of dimensions... a set of measures... and relationships between the set of dimensions and measures..." As

such, the claim is directed to a mere arrangement of data without function. Claims 2-16 recite further arrangements of data (e.g. groupings of dimensions). Similarly, Claim 31 recites a "A dimensional framework..comprising...a set of dimensions..." Because these claims do not fall within a statutory class of subject matter, process, machine, manufacture, or composition of matter, they are non-statutory.

Whereas claims 1 and 31 recite no computer-related implementation, Claims 34 and 35 embody the non-functional descriptive material of claims 1 and 31 as "computer program product." Still, non-functional descriptive material, even if recorded on computer-readable medium, remains non-statutory if no requisite functionality with or among the data structures thus created (by the data store) is present. Applicant claims no functionality, e.g. "representing" is a non-functional descriptor imparting abstract meaning but no functionality within or on the claimed arrangement of data.

Applicant is advised that this is not merely an issue with the preamble of the claims. Alternatively claiming "A system..." rather than "A business model..." with the same recited elements would not render the claims statutory, as no functionality will have been recited with or among the elements of the claim.

Amendment or cancellation of the claims is requested.

5. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

An invention is a practical application if it either: 1) transforms an article or physical object to a different state or thing; or 2) produces a useful, concrete, and tangible result. *State Street*, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02.

A non-statutory claim directed as a whole to an abstraction is not made statutory by the mere recitation of an intended use. *Parker v Flook*, 437 US 584, 595, 98 S. Ct. 2522, 2528 (1978).

Claim 17 recites "A method for creating a business model for use in a data warehouse system...comprising steps of: merging questions;...decomposing areas of analysis;...representing aspects;...and determining relationships...", however, as recited the claim fails to result in a practical application. Rather, the claim recites manipulation of abstract ideas reciting in the claims no functional manipulation of data to some useful, concrete, and tangible result that can be ascertained. As such the claim is non-statutory. By contrast claims 18 and 32 recite methods of creating a data warehouse including *implementing configurable aspects of the business model [created from business questions of the organization]*.

Amendment or cancellation of the claims is requested.

Double Patenting

6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states,

"Whoever invents or discovers any new and useful process ... may obtain a patent therefor..." Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

7. Claim 35 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 44 of copending Application No. 09/987905. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

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8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees:

A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claim 1, 17 and 34 are provisionally rejected on the ground of nonstatutory double patenting over claim 2 of copending Application No. 09/987905 to common assignee and inventors. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Claims 1, 17, and 34 of the present invention claim "a set of dimensions..a set of measures..., and relationships..." as in claim 2 of the copending application; however, claims 1, 17, and 34 do not claim "placeholders" and a "configuration unit". It is well known in the art that the "placeholders" in the present invention are editable defaults,

and that the editing of a default is performed in an editor of some sort. Applicants' specifications in the two applications are substantially identical and definitions accorded to one follow from the other, thus claim 2 having additional elements would be encompassed by claims 1, 17, and 34 and by certain of their dependents.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-16, 31, 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As above under the heading 35 USC § 101, the claims recite mere arrangements of data per se. Examining these claims on the merits would require speculation as to applicant's intent in claim a functional arrangement of data and as to what functionality would apply. See *In re Steele*, 305 F.2d 859, 134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection on these assumptions). Furthermore, speculation as to Applicant's intent may invoke an unnecessary and improper restriction between sets of claims to a

specific database or structure (assuming such claims are made statutory) versus a method of creating an integrated, shared-dimension, and cross-functional business process data warehouse.

Nonetheless, since remaining claims 17-30, 32, and 33 reciting "method[s] of creating a business model...comprising steps of...a set of dimensions" are statutory and will be examined on the merits, the art of closest speculation as to the rejected claims will have been applied to the method claims. Applicant is encouraged to consider these rejections in their drafting of new or revised claims.

Amendment or cancellation of the claims is requested.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by IBM (Ballard et al. "Data Modeling Techniques for Data Warehousing", IBM Redbook, February 1998).

IBM teaches comprehensively over creating business data warehouses including merging business questions into areas of analysis (Figure 52, pg 105, areas of Sales and Inventory); determining sets of dimensions and measures, and relationships of

multiple organizations (Figures 6 and 52). See all of IBM, especially Chapters 4, 8, 9 and Appendix A discussing data warehouse requirements analysis and architecture, examples, etc. of an interconnected and independent data mart architecture.

IBM in its entirety should be considered in Applicants' response to claims to "methods for creating a business model for use in a data warehouse system..." and claim variants thereof where the emphasis is on the method of arriving at the business process to be modeled as compared to computer program methods of data warehousing. Note that while IBM lists specific tools for creating and building data warehouse available (page 158) but does not provide details, IBM does extensively teach and suggest methods of use and capabilities to be desired in such tools.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 18-30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weissman et al (US 6212524 B1 "Method and Apparatus for Creating and Populating a Datamart" and "Method and Apparatus for Creating Aggregates for Use in a Datamart" US 6161103 to Rauer with common inventor Weissman, co-filed May 6, 1998) in view of Harmony Software, Inc. (WO 00/425543

"Methods and Apparatus for Processing Business Information from Multiple Enterprises").

Weissman discloses a configurable software framework for creating, populating, and maintaining business-directed dimensional data marts for a particular organization from an enterprise data warehouse, including configurable connectors used to access and aggregate multiple data sources, with emphasis on building a single data mart for one of "multiple organizations" as defined above.

Harmony discloses a configurable software framework for creating, populating, and maintaining business-directed dimensional data marts for a particular organization from an enterprise data warehouse, including configurable connectors used to access multiple data sources with emphasis on building data marts across an enterprise.

Claim 18

Weissman discloses a data model storing dimensions and measures (Figure 7 and Dimension Related Tables, column 14), the data model having settable placeholders (column 14, discussion of attribute setting including default values); and a configuration unit for setting the placeholders for a particular organization (see Enterprise Manager Interface, Figures 7-33 and related discussion); however, Weissman does not expressly disclose "a data model applicable for multiple organizations."

It is old and well known in the art of data warehousing that each organization, within a single company or across an enterprise, has different business needs, and each may have its own local data warehouse or datamart populated from data sources

of a company or enterprise. (See Sen and Jacob, "Industrial Strength Data Warehousing", Communications of the ACM, Special Issue on Data Warehousing, September, 1998. See IBM Redbook, *supra*. See Chaudhuri et al, "Database Technology for Decision Support Systems", Microsoft Research, IEEE Computer, 2001, pg. 49, left column. See Kimball. The Data Warehouse Toolkit, 1996, pg 22, item 1 "examples of business processes" within "Steps of the Design Process." See Adamson and Venerable, Data Warehouse Design Solutions, 1998, summary of book from website of publisher Wiley.) The organization-focused decision-support capability of a dimensional datamart is precisely their advantage over attempting to extract data from enterprise resource planning (ERP) systems and on-line transaction processing OLTP systems, or from the vast data stores of a company-wide data warehouse. It is also old and well known that systems using data sources across organizations within a single company or across an enterprise require accessing and harmonizing the various types of data and database systems (Kimball, The Data Warehouse Lifecycle Toolkit, 1998, Chapter 9 "The Back Room Technical Architecture", pg. 357).

Though Weissman teaches creating and customizing datamarts for a particular organization employing "connector" technology for the extraction of data from data sources, Weissman does not expressly give examples of building multiple datamarts for a different one of multiple organizations.

Harmony expressly discloses creating dimensional data warehouses for different organizations across an enterprise of multiple companies, or within a company having multiple divisions (see Harmony, pages 2, 3 and 5). In view of Weissman's teaching of

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building datamarts for an organization, though not restricted so, and Harmony's teaching of building datamarts for multiple organizations, it would have been obvious to one of ordinary skill in the art at the time of the invention to employ Weissman for a particular organization, and then employ Weissman for a second and third organization, thereby providing datamarts for multiple organizations. Doing so would have built for each organization of multiple organizations a datamart focused on their business needs, thereby providing more relevant data to answer their business questions and to make better decisions relative to their organization's needs.

Claim 19

Weissman teaches dimensions having placeholders defining at least one of ...a category settor...defined by the user (see Figure 10 Dimension Windows (1000) setting a Customer Region Code).

Claim 20

Weissman teaches measures having placeholders defining at least one of ...a currency settor...defined by the user (see Figure 30 Measure Selections Units for CURRENCY).

Claim 21

Weissman teaches defining a star schema architecture for a set of measures to which a relationship from dimensions to a set of measures (the fact table) is defined (see at least column 10 paragraph 3).

Claim 22

Weissman discloses the data model having settable placeholders (column 14, discussion of attribute setting including default values).

Claim 23

Weissman teaches measures having placeholders defining at least one of ... a currency settor...defined by the user (see Figure 30 Measure Selections Units for CURRENCY).

Weissman teaches dimensions having placeholders defining at least one of ... a category settor...defined by the user (see Figure 10 Dimension Windows (1000) setting a Customer Region Code).

Claim 24-30

Weissman teaches the multiple claimed aspects of connectors for accessing source data from one or more data sources and loading the extracted data into the data model, including connectors for extracting data with settable parameters (Figure 24 and related discussion on Extraction Interface Elements, e.g. column 36); connectors for extracting data with pre-defined and user-defined parameters specifying a particular data source system (Figure 19 "Input Data Store" and related discussion on Extraction Interface Elements, e.g. column 36).; connectors with settable parameters for the local environmental data store (Figure 20 "Data Store Window (2000) "Data Store Type"); a configuration unit (the Enterprise Manager Interface (192)) setting the type of database system for the connector, e.g. Microsoft SQL Server, a local data source parameter. The setting of the database type by the Enterprise Manager Interface is the setting of a

parameter (claim 10), a source detail (claim 11), and an environmental setting (claim 12); connectors comprising extraction transformation loading (ETL) software (Figure 22, see "Connector Steps" and within "SQL Statement").

Claim 32

Weissman discloses a data model storing dimensions (column 14 "Dimension Related Tables") and measures (Figure 1 (168) and column 13 "Fact Related Tables" and "measures are bits of data in fact tables" at column 6 "Definitions") and relationships between dimensions and measures allowing the use of common dimensions for analysis by multiple organizations, including cross-function analyses (Figure 7 in the Constellations section of the tree, Sales..Measures and Expense...Measures). *Sales* and *Expense* functions are cross-functional analyses. By the reasoning of claim 1 motivating the building of datamarts from a data model applicable to multiple organizations, using the teaching of Weissman in view of Harmony, Weissman inherently provides for measures to use common dimensions across functional areas in at least the dimension of "Customer" (see Figure 8, Base Dimension (810) Item "Customer").

Claim 33

Weissman teaches the multiple claimed aspects of connectors for accessing source data from one or more data sources and loading the extracted data into the data model, including connectors for extracting data with settable parameters (Figure 24 and related discussion on Extraction Interface Elements, e.g. column 36).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chen et al (US 6377934 B1 "Method for Providing a Reverse Star Schema Model"), discloses a configurable software framework for creating, populating, and maintaining business-directed dimensional datamarts for a particular organization from an enterprise data warehouse, with emphasis on customer-centric business aspects of multiple organizations (business groups).

Pasumanski et al (US 6477536 B1) teaches shared-dimensions and measures using "virtual cubes" linked to common data model "physical cubes."

Althoff et al (US 6366922 B1) teaches organizing multidimensional data into groupings or "classes" which correspond to each of the dimensions of the data.

Derbyshire in "An Architecture for a Business Data Warehouse", ICL Systems Journal, May 1996, teaches shared-dimensional data warehouse building for an enterprise business data model.

Bontempo and Zagelow in "The IBM Data Warehouse Architecture", Communications of the ACM, September 1998 teach an integrated warehouse solution to meet "cross-functional information requirements" in an multiple organization environment.

Ong in "The Evolution of a Data Warehouse Architecture – One Size Fits All? Aurora Consulting Pty Ltd., November 1998, teaches multiple, integrated data marts for particular subject areas of an organization built from a common "global repository"

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Guteierrez and Marotta in "An Overview of Data Warehouse Design Approaches and Techniques", October 2000, teach a reference list to further authorities for contemporaneous art at the time of invention for the present application.

Winter in "The Current and Future Role of Data Warehousing in Corporate Application Architecture, Proceedings ICSS, 2001 teaches decision support applications across business processes, business units, and business functions, including "widely reusable" meta data architectures for enterprise application development.

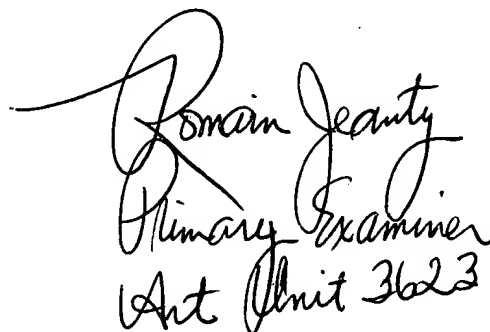
Power, D. J. in "A Brief History of Decision Support Systems" DSSResources.com, May 2003 teaches historical development of authorities related invention for the present application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is 571-272-8220. The examiner can normally be reached on 8:15am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dcr



Romain Jeanty
Primary Examiner
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Requirement for Information

1. 37 CFR 1.105 reads as follows:

In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), in a patent, or in a reexamination proceeding, the examiner or other Office employee may require the submission, from individuals identified under § 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, including but not limited to identification of relevant commercial databases, searches conducted, information used to draft application, information used in invention process, identification of improvements, in use, on sale or offered or demonstration information, technical information known to applicant concerning related art. Requirement may be made for factual information and responses to interrogatories or stipulations. Any reply to a requirement for information pursuant to this section that states either that the information required to be submitted is unknown to or is not readily available to the party or parties from which it was requested may be accepted as a complete reply, however, failure to reply to a requirement for information under this section may result in abandonment of the application.

2. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as given below following the basis for this request as follows:

In the course of examination and search, certain documents from the search suggest a date of first public use or sale or offer for sale prior to the critical date of invention. Articles and press releases of the assignee Cognos, Inc. dated more than one-year prior to the filing date of provisional Application No. 60/262361 (January 19, 2001), or more than one year prior to the foreign priority document dates of Canadian Application 2,339,063 (March 1, 2001) and Nos. 2,349,277 (March 31, 2001), strongly suggest claims in the present application. Because these documents evidence a potential on sale bar under 35 U.S.C. 102(b) to claims of the present invention and because they relate to commercial activity in the critical period, of which dates and details may be known only to the assignee, this Requirement for Information is proper.

As reported in "Cognos/IBM/Microsoft: Business Intelligence" (BYTEbeat, Week of May 24, 1999, www.monitor.ca/monitor/issues/vol6iss10/bytebeat.html [retrieved from internet 12/27/2006]), "this collaboration among three industry leaders delivers a complete end-to-end BI solution for data warehouses...optimized to support high ROI...with warehouse data such as multi-dimensional analysis, business performance reporting and business modeling."

And in a succession of marketing releases from Cognos beginning in January 2000, software products referred to as "BI solutions" were followed by references to "e-Business Intelligence Applications", and later to "e-Applications". In particular, the press release "Cognos Launches New e-Business Intelligence Unit" (Burlington, Mass., January 31, 2000, www-apps.cognos.com/news/releases/20000/rel_284.html [retrieved from internet 12/27/2006]) describes "pre-packaged solutions that include pre-defined data marts [for] Sales Analysis, Distribution Analysis, and Financial Analysis...in a series of coordinated applications designed to work seamlessly with one another." Also reported, *supra*, the "shipping in September 1999" of the software product "Cognos Finance" described therein as an "integrated system...designed to gather financial information from many source..to analyze data from many perspectives..to provide a single, global view of information..perform[ing] calculations including currency conversions, inter-company..and across multiple organizations."

The "Cognos Annual Report for Fiscal Year Ending 2/28/2000" (<http://www.sec.gov/Archives/edgar/data/746782/000095010900002355/0000950109-00-002355.txt> [retrieved 12-28-06]) reports revenues of \$385M derived from the

"licensing of software and the provision of related services" with such software products described under the heading "Business Intelligence Products":

"The Corporation's business intelligence products provide users with direct access to corporate data to enable them to improve business decisions. These products provide this direct access in both Web and client/server environments. A key value of these products lies in highly intuitive user interfaces that present data in a meaningful business context, allowing the user to directly and productively review and analyze corporate information to gain knowledge.

The Cognos business intelligence (BI) product platform builds on a single, common technology foundation to deliver a highly integrated and scalable BI solution. The platform leverages this common technology underpinning to deliver a complete, end-to-end infrastructure. As a result, organizations are provided a consistent, corporate-wide view of business intelligence reports and analyses.

The platform's architecture consists of five service layers encompassing data mart creation, integrated metadata modeling, content management and a single point of personalized access/distribution through a full-featured portal. The fifth layer, the security service layer, spans the other four, which operate in parallel, and provides a common, centrally managed security. The scalability of the platform architecture means that organizations can deliver enterprise-wide business intelligence applications to a broad user community that may comprise stakeholders inside and outside the organization." (2000 Annual Report, page 3)

Continuing in the FY2000 Cognos Annual Report under the headings "Decision Stream" and "Cognos e-Applications" (page 6), two business intelligence software products are described as providing integrated, shared-dimension, cross-functional datamarts for organizations using data extraction, transformation and loading (ETL) technology. The software products thus described closely paraphrase the disclosed invention and alone, or in combination, suggest broad claims of the present application. A later document "Constructing the Integrated Data Warehouse with Cognos e-Applications" (Cognos White Paper, September 2000, [retrieved from internet 12/27/2006]) provides a

complete description of the integrated, shared-dimension, and cross-functional business process datamart solution.

3. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application:

a. Technical information, promotional information, user information, training information, process and procedures related to the present invention shared with other companies, affiliates, vendors or buyers along with dates of presentation to other companies, affiliates, vendors or buyers of products related to the present invention.

b. Information relating to the basis for the present invention related to possible pre-cursor products variously referred to as "business intelligence applications" or "BI-solution" or "e-Business Intelligence Applications" or "e-Applications" and variants thereof.

c. Date(s) of first use or sale or offer for sale of any of related products either related to or used in the invention of the present invention.

4. Requirements for factual information known to applicant may be presented in any appropriate manner.

In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in

the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure. The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of the requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97 where appropriate.

5. Applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item. Failure to fully reply to this requirement for information will result in a holding of abandonment.

6. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.



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